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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
BRIAN S. FELLNER,

Plaintiff,

-against-

UNITED STATES OF AMERICA,

Defendant.
-----X

JUDGE CONNER

'08 CIV-00013

COMPLAINT

Jury Trial ☐ Yes ☐ No

FILED
U.S. DISTRICT COURT
2008 JAN -2 P 12:13
S.D. OF N.Y. W.P.

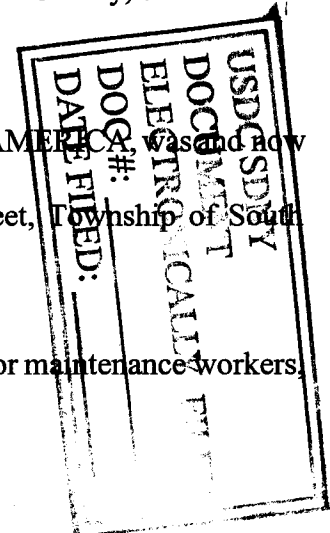
Plaintiff, BRIAN S. FELLNER (hereinafter "Plaintiff"), by his attorneys, SOMER & HELLER LLP, complaining of defendant, UNITED STATES OF AMERICA, (hereinafter "Defendant") hereby alleges as follows:

1. This action arises under the Federal Tort Claims Act, 28 U.S.C.A. §§ 2671 et seq.
This court is vested with jurisdiction pursuant to 28 U.S.C.A. § 1346(b).

2. Plaintiff, BRIAN S. FELLNER, resides in Airmont, Rockland County, State of New York, the same being within the Southern District of New York.

3. At all times mentioned, Defendant, UNITED STATES OF AMERICA, was and now is the owner of a United States Post Office located at 560 Huyler Street, Township of South Hackensack, County of Bergen, State of New Jersey 07606.

4. At all times hereinafter mentioned, Hackensack Postal and/or maintenance workers,



employees or agents of the United States Postal Service, a federal agency of Defendant, had a duty to clean, maintain and keep Defendant's Post Office in good order for the use of persons entering such building. All of the acts or omissions complained of were performed by the above-named employees and/or agents of Defendant, while acting within the scope of their employment or agency, and with the permission and consent of Defendant.

5. On or about June 7, 2006, and for some time prior, Defendant's employees/agents careless, reckless and were negligent in that they allowed an excessive amount of water to accumulate on the floor of the Post Office lobby/entryway, thereby creating a slippery and hazardous condition, and further failed to use reasonable care in removing the accumulated water, and allowed the floor to remain in a slippery, hazardous, and unsafe condition.

6. On our about June 7, 2006, and for some time prior, Defendant's employees/agents were careless, reckless and negligent in that they affirmatively placed certain rugs in or about the lobby/entryway of said Post Office, which rugs were positioned in such a way that they created a hazardous condition by creating a gap between the rugs which required patrons, including the Plaintiff, to step on the wet tile floor between the rugs.

7. On or about June 7, 2006, at approximately 8:10 a.m, Plaintiff, while lawfully and properly in the Post Office, and while exercising due care for Plaintiff's own safety, slipped and fell to the floor of the lobby/entryway of the Post Office as a direct and proximate result of such wrongful careless, reckless and negligent conduct of Defendant's employees/agents.

8. As a direct and proximate result of the negligence, carelessness and recklessness of Defendant's employees/agents, Plaintiff suffered the following injuries: right ankle fracture/dislocation requiring stabilization as well as ligamentous reconstruction.

9. As a direct and proximate result of such injuries, Plaintiff has been, and will continue

to be, in great physical, mental, and emotional pain and distress, all to Plaintiff's damage in the sum of approximately Two Million (\$2,000,000.00) Dollars.

10. As a further direct and proximate result of such injuries, Plaintiff has incurred, and will incur, for an indefinite time in the future, medical expenses and obligations.

11. The damages caused the Plaintiff, as aforesaid, were caused solely and entirely by the carelessness, recklessness and negligence of the Defendant herein, and without any fault or want of care on the part of the Plaintiff.

12. On or about February 15, 2007, Plaintiff, BRIAN S. FELLNER filed a claim for administrative settlement with the United States Postal Service in the sum of Two Million (\$2,000,000.00) Dollars.

13. On or about July 20, 2007, Plaintiff's claim was finally denied by the United States Postal Service in writing and sent to Plaintiff by registered mail.

14. Based upon the foregoing, Plaintiff, BRIAN S. FELLNER, demands judgment against the Defendant in the sum of Two Million (\$2,000,000.00) Dollars.

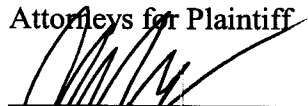
Wherefore, Plaintiff demands judgment against Defendant in the amount of two million (\$2,000,000.00) dollars with interest on such amount as allowed by law together with costs of suit; and for such other and further relief as the court deems just and proper.

Dated: Commack, New York
December 26, 2007

Yours, etc.

SOMER & HELLER LLP
Attorneys for Plaintiff

By:



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